

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
GREYHOUND LINES-WEST,

Appellant,

v.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 973

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

Nature of case: \$50 civil penalty for allegedly causing or
allowing the emission of an air contaminant
in violation of the Ringelmann standard of
Section 9.03(b) of Regulation 1.

Formal hearing: April 2, 1976, Lacey, Washington.

Board members present: W. A. Gissberg and Walt Woodward.

Presiding officer: David Akana, hearing examiner.

Court reporter: Sherri Darkow.

For appellant: K. W. Sheide, District Manager.

For respondent: Keith D. McGoffin, attorney.

FINDINGS OF FACT

1. On December 29, 1975 appellant caused the emission of black smoke, an air contaminant, from its boiler stack located at its building in Seattle, Washington. The emissions, ranging from Ringelmann Nos. 3 to 5, lasted eight minutes of the 25 minute observation period. For this violation, respondent issued a notice of violation and notice of civil penalty wherein a \$50 civil penalty was assessed. Although appellant admitted the violation, it appealed seeking mitigation of the penalty.

2. Appellant has no previous record of violations of Regulation 1. The occurrence in question here was due to the malfunctioning of the burners in appellant's boiler. Appellant did not report¹ its problem to respondent or present any evidence which would assure this Board that future violations would be unlikely.

3. Pursuant to RCW 43.21B.260, respondent's Regulation 1 is noticed.

4. Any Conclusion of Law hereinafter stated which may be deemed a Finding of Fact is hereby adopted as such.

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1. "Emissions exceeding any of the limits established by this Regulation as a direct result of start-ups, periodic shutdown, or unavoidable and unforeseeable failure or breakdown, or unavoidable and unforeseeable upset or breakdown of process equipment or control apparatus, shall not be deemed in violation provided the following requirements are met:

- (1) The owner or operator of such process or equipment shall immediately notify the Agency of such occurrence, together with the pertinent facts relating thereto regarding the nature of problem as well as time, date, duration and anticipated influence on emissions from the source." Section 9.16.

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

CONCLUSIONS OF LAW

1. On December 29, 1975 appellant violated Section 9.03(b) of Regulation 1 by causing the emission of an air contaminant for more than three minutes in any one hour which was darker in shade than Ringelmann No. 1.

2. The \$50 civil penalty assessed pursuant to Section 3.29 is reasonable in amount and should be affirmed.

3. Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

ORDER

The \$50 civil penalty assessed on appellant by respondent should be and the same is hereby affirmed.

DONE at Lacey, Washington this 6th day of April, 1976.

POLLUTION CONTROL HEARINGS BOARD

W. A. Gissberg
W. A. GISSBERG, Member

Walt Woodward
WALT WOODWARD, Member